

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

2020 APR 22 PM 2:28

DEPUTY CLERK

UNITED STATES OF AMERICA, and
the STATE of TEXAS ex rel.
JAMES STEVE BURDICK, M.D.,

Plaintiffs,

Civil Action No. 3:19-CV-00207-E

v.

FILED IN SEALED CASE

BAYLOR UNIVERSITY MEDICAL
CENTER, BAYLOR SCOTT & WHITE
HEALTH, BAYLOR SCOTT & WHITE
HOLDINGS. DIGESTIVE HEALTH
ASSOCIATES OF TEXAS, P.A., TEXAS
DIGESTIVE DISEASE CONSULTANTS
PLLC, HEALTHTEXAS PROVIDER
NETWORK,,

Defendants.

THE UNITED STATES OF AMERICA'S DECLINATION NOTICE

1. The United States of America (United States), pursuant to 31 U.S.C. § 3730(b)(4)(B), on behalf of itself and the State of Texas, respectfully notifies the Court of its decision not to intervene in this action.

2. Although the United States is declining to intervene, we respectfully refer the Court to the provisions of the False Claims Act, 31 U.S.C. § 3730(b)(1), which permit a relator to maintain the action in the name of the United States; provided, however, that the "action may be dismissed only if the Court and the Attorney General give written consent to the dismissal and their reasons for consenting." The United States requests

that, should either Relator or Defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval of such a request.

3. The United States further requests that pursuant to 31 U.S.C. § 3730(c)(3), Relator and Defendants serve all pleadings filed in this action upon the United States, and that all Orders issued by the Court also be sent to the undersigned government counsel.


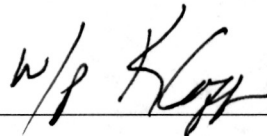
4. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause shown, at a later date pursuant to 31 U.S.C. § 3730(c)(3).

5. The United States finally requests that only the Complaint, the First Amended Complaint, this Notice, and the Court's accompanying Order be unsealed and served upon Defendants. The United States asks that all other materials in this matter (including, but not limited to, any hearing transcripts or applications filed by the United States for an extension of time in which to intervene or for any other reason) remain under seal and not be made public or served on Defendants at any time because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

6. A proposed Order accompanies this notice.

Respectfully submitted,

ERIN NEALY COX
UNITED STATES ATTORNEY

 w/p 

BRADEN CIVINS

Assistant United States Attorney
Texas Bar No. 24080836
1100 Commerce Street, Third Floor
Dallas, Texas 75242
Telephone: 214-659-8600
Facsimile: 214-659-8807
Email: braden.civins@usdoj.gov



Attorneys for the United States of America

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2020, a copy of the foregoing pleading and proposed Order were mailed by first class mail to counsel for Relator:

Darth M. Newman, Esq.
Law Offices of Dart M. Newman
1140 Thorn Run Rd #601
Coraopolis, PA 15108

Joseph H. Gillespie
Gillespie Sanford, L.L.P.
4925 Greenville Avenue, Suite 200
Dallas, TX 75206

 w/p 
BRADEN CIVINS
Assistant United States Attorney

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ORDER

Having reviewed the United States of America's Declination Notice, and pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4), **IT IS HEREBY ORDERED** that:

1. The First Amended Complaint in the above-referenced action shall be unsealed after the date of this Order and served upon defendants by relator;
2. All other contents of the Court's file in this action shall remain under seal and shall not be made public or served upon defendants pursuant to L.R. 79.4 or otherwise, except for this Order, the Complaint, and the United States of America's Declination Notice, which relator shall serve upon defendants only after service of the First Amended Complaint;

3. The seal shall be lifted and all papers filed or lodged in this action after the date of this Order shall not be sealed, unless otherwise ordered by the Court;

4. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;

5. All orders of this Court shall be sent to the United States; and

6. Should relator or defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

SO ORDERED.

Dated this ____ day of April, 2020.

HONORABLE ADA BROWN
UNITED STATES DISTRICT JUDGE